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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,339	03/06/2006	Francesco Piero Macchi	2502-1079	9111

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EXAMINER

LOW, LINDSAY M

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/533,339	<b>Applicant(s)</b> MACCHI, FRANCESCO PIERO	
	<b>Examiner</b> Lindsay M. Low	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 43-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 43-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/2/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

### ***Information Disclosure Statement***

2. The Information Disclosure Statement (IDS) submitted on May 2<sup>nd</sup> 2005 is acknowledged. The IDS meets the requirements of 37 CFR 1.97 and 1.98.

Therefore, the references therein have been considered

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 16A and 10A. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the

Art Unit: 3721

applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The usual headings "Background of the Invention," "Brief Summary of the Invention," "Brief Description of the Drawings," etc should be utilized.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 43-45, 47, 49-50, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cleff (3,924,771) in view of Osborne (2,409,788).

Cleff discloses the same invention substantially as claimed including the steps of connecting a metal (col. 6 lines 3-4) stopper 16 to capsule-forming foil 1 which provides a skirt. The stopper-skirt combination is applied to the mouth of the container to be sealed. Before the skirt is made rigid with the container, threads as shown in Fig. 12 are formed on the lateral wall of stopper 16. The skirt is then made rigid with the container by heat shrinking the foil (abstract). The initial foil pieces used to form the skirt are in the form of trapezoidal pieces (Fig. 2 and col. 3 line 33) and then are formed into tubular elements (Fig. 6A).

Art Unit: 3721

The foil is made of a heat-shrinkable plastic material (col. 6 lines 12-13 and abstract) and is made mutually rigid with the stopper 16 by heat-shrinkage (col.3 lines 52-64). Once the stopper-skirt combination is in place on the container, the skirt is heated again and shrunk onto the container (col. 4 lines 6-10). The foil has a tear strip 9 that enables it to be torn prior to the unscrewing of the stopper 16 as shown in any of the Figures.

Cleff fails to disclose how the threads are formed on the stopper prior to making the skirt rigid with the container. However, Osborne teaches a closure 2 that is placed over the threaded container. Thread rollers 9 are then used on the blank to create threads that conform to the external threads on the mouth of the container (Fig. 2 and col. 2 lines 22-25) for the purpose of producing a tight seal between the container and stopper surfaces (col. 1 line 45). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use thread rollers to create threads on the lateral wall of the stopper to match the external threads on the container for the purpose of creating a tight seal between the container and stopper surfaces.

7. Claims 46, 48, 51-53, and 55-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cleff (3,924,771) in view of Osborne (2,409,788) as applied to claims 43-45, 47, 49-50, and 54 and further in view of Blanchard (1,982,567).

The modified method of Cleff discloses the invention substantially as claimed except for the foil used to make the skirt being made of a relatively thin metallic material such as aluminum, tin, or a polylaminate. However, Blanchard

Art Unit: 3721

teaches a capsule for stopping bottles that uses a thin metal foil 2 that is made out of tin or some other non-corrosive substance (col.1 lines 29-30), especially a poly laminate using tin and lead plated with tin (col. 1 lines 1-4), for the purpose of having a thin enough metal to deform and tear. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use a foil made from a thin metallic material such as tin or a poly laminate for the purpose of being easily deformable and torn.

The modified method of Cleff also fails to disclose that the foil is made rigid with the stopper by gluing and is made rigid with the container by rolling. However, Blanchard teaches a capsule with a thin metal foil 2 being attached to the stopper 1 by gluing (col. 1 line 29) for the purpose of creating the stopper-capsule combination and is made rigid with the container 4 by rolling (col. 1 lines 35-37) for the purpose of satisfactorily closing the container mouth. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to glue the foil 2 to the stopper 1 in order to make the stopper-capsule combination and then to roll the foil 2 onto the container 4 in order to create a seal.

The modified method of Cleff also fails to disclose that the foil is torn along weakened lines as a result of the stopper being unscrewed. However, Blanchard teaches a weakened portion 8 that tears as the stopper 1 is being unscrewed for the purpose of facilitating the opening of the bottle (col. 1 lines 43-55). Therefore it would have been obvious to one of ordinary skill in the art at the time of the

Art Unit: 3721

invention to use weakened lines on the foil so that when the stopper 1 is unscrewed, the foil tears along those lines.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Otsuka et al., Chupak, Shah, Sakurai, Hirohama, Scheidegger, Sayre, Pfefferkorn et al., Snyder, Travisano, Irish Jr., Weiner, and Atwood are cited to show similar inventions.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lindsay M. Low whose telephone number is 571-272-1196. The examiner can normally be reached on Monday thru Friday 7:30 to 5:00.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3721

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LML  
12/5/2006

*LML*



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